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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,728	05/17/2006	Kiyoshi Komatsu	2006_0708A	3568
513 7590 03/11/2010 WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503				
EXAMINER				
UPTON, CHRISTOPHER				
ART UNIT		PAPER NUMBER		
1797				
NOTIFICATION DATE		DELIVERY MODE		
03/11/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com

coa@wenderoth.com

**Office Action Summary****Application No.**

10/579,728

**Applicant(s)**

KOMATSU, KIYOSHI

**Examiner**

Christopher Upton

**Art Unit**

1797

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-27 is/are allowed.
- 6) ☒ Claim(s) 28-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date See Continuation Sheet

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :7/21/09, 9/16/08, 4/3/07, 9/27/06, 5/17/06.

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 34-37 been renumbered 33-36.

2. Claims 28-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear as to whether the claims claim only the bag, or if a combination with a grease trap is intended, since the only structure related to the grease trap is the "engaging means," which may be provided separately from the grease trap. For purposes of examination, the subcombination is assumed.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 28, 31, 32 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Turner.

Figures 2-5B of Turner discloses a synthetic net bag having a rigid base and plural layers, and engaging means, as claimed.

5. Claims 28, 31 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Kinne.

Kinne discloses a synthetic net bag having a rigid base and an engaging means for the bag, as claimed.

6. Claims 28 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Hannah.

Hannah discloses a net bag having a rigid base and engaging means, as claimed.

7. Claims 28, 31 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese publication 8-41970.

The Japanese publication discloses a synthetic net bag having a rigid base and engaging means in figures 10-13, as claimed.

8. Claims 28, 29, 31 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese publication 2003-001282.

The Japanese publication discloses a synthetic net bag having a rigid base with a handle for grasping, as claimed.

9. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied to claim 28.

Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turner.

Claim 33 differs from claim 28 in recitation of the size of the holes in the bag. It is submitted that a filter bag may obviously be made with any desired size holes, depending on what it is desired to remove. Claim 34 depends from claim 33, and recites plural layers in the bag. This is disclosed by Turner.

10. Claims 30 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied to claims 28 and 29, above, and further in view of Japanese publication 9-165103.

Claims 30, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied to claims 28, 29 and 33 and further in view of Japanese publication 8-224409.

Claims 30 and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied to claims 28, 29 and 33, and further in view of Japanese publications 11-147008 or 11-158987.

Claims 30, 34 and 35 differ from differ from claims 29, 33 and 28, respectively, in recitation of the bag having plural layers. It is well known to make a bag from plural layers of filter fabric, as exemplified by the secondary references. It would therefore have been obvious for one of ordinary skill in the art to make the bags of the references applied to claims 28, 29 and 33 from plural layers, for increased strength. Claim 36 additionally recites three layers. This is shown by Japanese publications 11-147008 and 11-158987. Claim 33 recites a specific hole size. While addressed in paragraph 9, above, Japanese publication 9-165103 discloses a net bag having the specific size claimed.

11. Claims 16-27 are allowed.

The recitation of a grease trap having a bag filter at the inlet supported above the water level, wherein the engagement means for the bag is displaceable by an engaging means from a position where the bag is spaced from the drain passage to a position where the end of the drain passage is within the bag patentably distinguishes over the prior art of record.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references of interest include Batten, Use, Lowe, Schneider, Mokrzycki, and Leahy. In addition, while not prior art, Happel discloses a reference of interest.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Upton whose telephone number is 571-272-1169. The examiner can normally be reached on 8:30-6:00, off every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Upton/  
Primary Examiner, Art Unit 1797

Christopher Upton  
Primary Examiner  
Art Unit 1797